

**HOUSE BILL NO. 1458**

Introduced by

Representatives Vetter, Beltz, Bosch, Cory, Koppelman, Motschenbacher, Rohr, M. Ruby,  
Satrom

Senators Barta, Dever, Meyer

1 A BILL for an Act to amend and reenact section 14-09-09.7 of the North Dakota Century Code,  
2 relating to child support guidelines.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 14-09-09.7 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **14-09-09.7. Child support guidelines.**

7 1. The department of health and human services shall establish child support guidelines  
8 to assist courts in determining the amount a parent should be expected to contribute  
9 toward the support of the child under this section. The guidelines must:

10 a. Include consideration of gross income. For purposes of the guidelines, gross  
11 income does not include an employee benefit over which the employee does not  
12 have significant influence or control over the nature or amount unless:

13 (1) That benefit may be liquidated; and

14 (2) Liquidation of that benefit does not result in the employee incurring an  
15 income tax penalty.

16 b. Include consideration of the obligor providing health insurance coverage for the  
17 child;

18 c. Authorize an expense deduction for determining net income.

19 e.d. Designate other available resources to be considered.

20 d.e. Specify the circumstances that should be considered in reducing support  
21 contributions on the basis of hardship.

22 e.f. Include consideration of extended periods of time a minor child spends with the  
23 child's obligor parent.

- 1           f.g.    Authorize a rebuttal of the presumption provided in subsection 4 based on the  
2                    proportionate net income of the obligor and the obligee when the net income of  
3                    the obligee is at least three times higher than the net income of the obligor.
- 4           g.h.    Include consideration of an obligated party's responsibility for health insurance  
5                    coverage or other medical support under section 14-09-08.10.
- 6           2.    The guidelines may not take into consideration cases of atypical overtime wages or  
7                    nonrecurring bonuses over which the obligor does not have significant influence or  
8                    control.
- 9           3.    The department shall accept and compile pertinent and reliable information from any  
10                   available source in order to establish the child support guidelines. Copies of the  
11                   guidelines must be made available to courts, state's attorneys, and upon request, to  
12                   any other state or county officer or agency engaged in the administration or  
13                   enforcement of this chapter.
- 14           4.    There is a rebuttable presumption that the amount of child support that would result  
15                   from the application of the child support guidelines is the correct amount of child  
16                   support. The presumption may be rebutted if a preponderance of the evidence in a  
17                   contested matter establishes, applying criteria established by the child support agency  
18                   which take into consideration the best interests of the child, that the child support  
19                   amount established under the guidelines is not the correct amount of child support. A  
20                   written finding or a specific finding on the record must be made if the court determines  
21                   that the presumption has been rebutted. The finding must:
- 22                   a.    State the child support amount determined through application of the guidelines;  
23                   b.    Identify the criteria that rebut the presumption of correctness of that amount; and  
24                   c.    State the child support amount determined after application of the criteria that  
25                   rebut the presumption.
- 26           5.    The department shall institute a new rulemaking proceeding under section 28-32-02  
27                   relating to the child support guidelines to ensure that the application of the guidelines  
28                   results in the determination of appropriate child support award amounts. The initial  
29                   rulemaking proceeding must be commenced with a notice of proposed adoption,  
30                   amendment, or repeal by August 1, 1998, and subsequent rulemaking proceedings  
31                   must be so commenced at least once every four years thereafter. Before commencing

- 1           any rulemaking proceeding under this section, the department shall convene a drafting  
2           advisory committee that includes two members of the legislative assembly appointed  
3           by the chairman of the legislative management.
- 4        6.    The guidelines established under this section may include a separate amount of child  
5           support for the child's health insurance coverage, reimbursement for public health  
6           coverage provided under chapter 50-29, and other medical support.